

ITEL

Pullman

July 20, 1989

RECORDATION NO

FILED 1425

JUL 25 1989 -4 05 PM

Itel Rail Corporation

55 Francisco Street
San Francisco, California 94133
(415) 984-4000
(415) 781-1035 Fax

INTERSTATE COMMERCE COMMISSION

9-206A063

Hon. Noretta R. McGee
Secretary
Interstate Commerce Commission
Washington, DC 20423

Re: Rider H to Master Lease Agreement dated February 28, 1986, between Itel Rail Corporation and Iowa Interstate Railroad, Ltd.

Dear Ms. McGee:

On behalf of Itel Rail Corporation, the above instrument, in three (3) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$13 recordation fee.

Please record this Rider under Master Lease No. 1100 dated February 28, 1986, between Itel Rail Corporation and Iowa Interstate Railroad, Ltd., which was filed with the ICC on April 7, 1986, under Recordation No. 14935.

The parties to the aforementioned instrument are listed below:

Itel Rail Corporation (Lessor)
55 Francisco Street
San Francisco, California 94133

Iowa Interstate Railroad, Ltd. (Lessee)
818 Church Street
Evanston, Illinois

This Rider adds to the Lease Agreement one (1) IMPACK flatcar bearing reporting mark IAIS 100102.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

Patricia Schumacker

Patricia Schumacker
Legal Department

FOR
CCE
UNIT
JUL 25 3 51 PM '89

JUL 25 1989 -4 05 PM

RIDER ^H ~~8~~ H
TO
INTERSTATE COMMERCE COMMISSION

PHB

MASTER LEASE NO. 1100 BETWEEN ITEL RAIL CORPORATION
AND IOWA INTERSTATE RAILROAD, LTD.

THIS RIDER ^H ~~8~~ ("Rider ^H ~~8~~") to that certain Master Lease Agreement No. 1100, as amended, (the "Agreement") made as of February 18, 1986, between ITEL RAIL CORPORATION ("Lessor") and IOWA INTERSTATE RAILROAD, LTD., as lessee ("Lessee") is made this 23rd day of June, 1989, between Lessor and Lessee.

Lessor and Lessee agree as follows:

1. All capitalized terms defined in the Agreement shall have the meanings defined therein when used in this Rider ^H ~~8~~, except that the term "Car" as used herein shall only refer to the equipment described in this Rider unless otherwise indicated.
2. Lessor hereby leases the following Car to Lessee subject to the terms and conditions of the Agreement and this Rider:

AAR Mechanical Designation	Description	Numbers	Dimensions Inside		No. of Cars
			Length	Width	
FCA	10-unit, Articulated non-retractable trailer hitches, IMPACK TOFC	IAIS 100102	462'8"	8'	1

3. The term of the Agreement with respect to the Car described in this Rider shall commence at 12 noon on the date that this Rider is fully executed ("Commencement Date") even if the Car bears Lessor's reporting marks, and shall continue for three (3) years thereafter (the "Initial Term").
4. Upon the full execution of this Rider ^H ~~8~~, the storage agreement dated August 1, 1985, between Lessor and Lessee shall be terminated with respect to the railcar bearing the reporting marks SSIX 100102 and Lessee shall, at Lessee's expense, remark said railcar to bear Lessee's reporting marks. Lessee shall advise Lessor in writing of the date on which such remarking is completed. Subsection 3.A. of the Agreement shall not apply with respect to the Car.
5. LESSEE ACKNOWLEDGES THAT IT IS LEASING THE CAR "AS IS", "WITH ALL FAULTS", AND IN RELIANCE SOLELY ON ITS OWN JUDGEMENT. LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER AS TO THE CAR, EITHER EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, LESSOR DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. LESSEE AGREES THAT LESSOR SHALL HAVE NO LIABILITY WHATSOEVER FOR INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES.

6. Lessee understands that the Car may not have AAR interchange approval. Lessee covenants that the Car shall be used only on its lines. Lessee shall be responsible and shall pay for all charges and fines that may result should the Car move off Lessee's lines.
7. When the Car has been remarked, Lessee shall perform the registration and record keeping required for the Car described in this Rider, as described in Section 4 of the Agreement.
8. Lessee shall perform or cause to be performed and pay all costs and expenses associated with the maintenance of the Car. Any parts, replacements or additions made to the Car are deemed accessions to such Car and title thereto shall vest immediately in Lessor. All repairs must be made in accordance with the Interchange Rules, as amended from time to time. The first sentence of Subsection 5.A. of the Agreement and the entire Subsections 5.B. and 5.C. of the Agreement shall not apply with respect to the Car.
9. Lessee assumes responsibility for and agrees to pay, defend, hold harmless and indemnify Lessor and its successors against all taxes, fees, levies, imposts, duties or withholdings of any nature, together with penalties, fines or interest thereon, imposed on, incurred by, asserted against or imposed upon: (1) the Car; (2) the lease, sublease or delivery of the Car; and (3) the revenues earned by the Car, including, but not limited to, mileage charges and/or car hire revenues earned during the Initial Term or any extended term of the Agreement; provided, however, that Lessee shall not be responsible for taxes on income imposed on Lessor while the Car is on Lessee's lines. Lessee will comply with all state and local laws requiring filing of ad valorem tax returns associated with the Car. Subsection 5.F. shall not apply with respect to the Car.
10. A. The fixed rent ("Fixed Rent") for the Car shall be (\$) per month for each full calendar month ("Month") during the Initial Term and any extended term. The Fixed Rent for each partial Month shall be prorated at (\$) per day. The Fixed Rent shall be due and payable regardless of any claimed abatement, reduction or offset, except as otherwise provided herein.

B. Effective as of the date that this Rider is fully executed, even if the Car still bears Lessor's reporting marks, Lessee shall pay to Lessor the Fixed Rent, and all taxes reimbursable to Lessor as additional rent hereunder, on the last day of each month during the Initial Term and any extended term.
11. With respect to the Car only, the following shall apply instead of Subsection 11.A. and 11.B. of the Agreement:

"Lessee agrees to defend, indemnify and hold harmless Lessor from any and all claims, liabilities, losses, damages, costs and expenses (including attorneys' fees) caused by, arising out of, or in connection with the Car, including without limitation the use, possession, operation, maintenance and leasing of the Car (collectively, 'Damages'), except for any Damages which arise solely from Lessor's negligence. The indemnities and

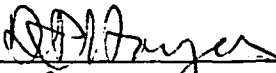
assumptions of liability contained in this Agreement shall survive the expiration or termination of the Agreement."

12. Upon the expiration of the Agreement with respect to the Car described in this Rider only and provided that no event of default by Lessee has occurred and is continuing under the Agreement, Lessee shall have the option to purchase the Car upon the following terms and conditions: (a) Lessee shall provide Lessor with written notice of Lessee's intent to purchase the Car at least forty-five (45) days prior to the expiration date; (b) Lessee shall pay to Lessor the purchase price of twelve thousand dollars (\$12,000) in cash or by wire transfer or draft; (c) Lessee shall be responsible for, shall pay, and shall agree to indemnify Lessor for, any or all sales or use tax accruing as the result of such sale; (d) Lessor shall execute and deliver to Lessee a bill of sale upon Lessee's payment of the purchase price for the Car; (e) **THE CAR SHALL BE SOLD AS IS, WHERE IS, WITHOUT REPRESENTATIONS OR WARRANTIES OF ANY KIND, AND LESSOR SHALL EXPRESSLY DISCLAIM ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
13. A. Upon the expiration of the Agreement with respect to the Car described in this Rider and in the event that Lessee chooses not to exercise the purchase option described in Section 12 above, Lessee shall promptly return the Car to Lessor as follows:
- (i) If the Car is to be delivered to Lessor at Lessee's railroad tracks, Lessee shall be responsible for any transportation costs incurred in moving such Car to Lessee's railroad tracks subsequent to the time of expiration. Lessee shall, at Lessor's option, provide up to one hundred twenty days (120) days free storage on its railroad tracks from either the date of expiration or the date that the Car on Rider ~~is~~ is returned to Lessee's railroad line subsequent to the time of expiration, whichever date is later. H
 - (ii) The condition of the Car shall be determined by a joint inspection by the parties. In the event that Lessee has altered or modified the Car or replaced any parts to qualify the Car for dedicated service, then Lessor may, at its option, request that the Car be restored to its original condition.
 - (iii) At the option of Lessor, either Lessee or a contractor mutually chosen by Lessor and Lessee shall, at Lessee's expense, remark the Car as set forth in Subsection 13.B. hereinbelow. Lessee shall not remove Lessee's railroad marks from any Car without the prior written consent of Lessor.
 - (iv) If the Car is to be delivered to Lessor at a location other than Lessee's tracks, the cost of delivering, storing, and transporting the Car to such location shall be borne by Lessor. Lessee shall bear the expense of remarking the Car.
- B. Remarking, with respect to the Car, shall include the following: a) removal of existing mandatory markings of Lessee; b) complete cleaning subsequent to the removal of markings as designated by

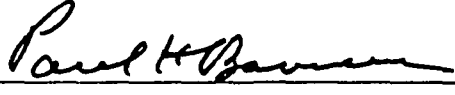
Lessor; c) application of new mandatory markings; and d) any transportation involved in moving each Car to and from a suitable work area to perform the remarking set forth in this Section.

14. This Rider may be executed by the parties hereto in any number of counterparts, and all counterparts taken together shall be deemed to constitute one instrument.

ITEL RAIL CORPORATION

By: 
Title: President and CEO
Date: 6/23/89

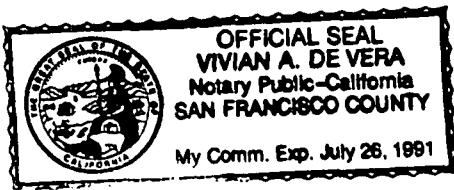
IOWA INTERSTATE RAILROAD, LTD.

By: 
Title: Ch & CEO
Date: 6/9/89

STATE OF CALIFORNIA)
) ss:
COUNTY OF SAN FRANCISCO)

PAID
PAID

On this 23rd day of June, 1989, before me personally appeared Desmond P. Hayes, to me personally known, who being by me duly sworn says that such person is President and Chief Executive Officer of Itel Rail Corporation, that the foregoing Rider ~~is~~ was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.



Lorian O. De Vera

Notary Public

STATE OF Illinois)
) ss:
COUNTY OF Cook)

On this 14th day of June, 1989, before me personally appeared PAUL BARNETT, to me personally known, who being by me duly sworn says that such person is CHAIRMAN + CEO of Iowa Interstate Railroad, Ltd. that the foregoing Rider ~~is~~ was signed on behalf of said corporation by authority of its board of directors, and such person acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Barbara E. Lazar

Notary Public

